

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA RECEIVED  
NORTHERN DIVISION

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**ANNYE J. THOMAS, c/o  
THE ESTATE OF LAKECIA Q.  
BROADNAX,**

DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

**Plaintiff,**

v.

CV-06 206-CV-1091-MHT

**AUTO-OWNERS INSURANCE  
COMPANY,**

**Defendants.**

**PLAINTIFF'S OBJECTION TO DEFENDANT'S MOTION TO DISMISS**

**COMES NOW** The Plaintiff, by and through her undersigned counsel, and does hereby object to the Defendant's Motion to Dismiss, and as grounds state the following:

1. In Shaddix v. United States Ins. Co. of Am., 678 So. 2d 1097 (Ala. Civ. App. 1995), the Court held that a Motion to Dismiss should be granted sparingly, and is properly granted when it appears beyond a reasonable doubt that the Plaintiff cannot prove any set of facts which would entitle him to relief.

2. Here in our case, Defendant denied Plaintiff's claim of Underinsured Motorists insurance coverage, ostensibly for Plaintiff's decedent being deemed the "owner" of a vehicle, which the "lienholder", actually owned at the time of Plaintiff's deceased resident relative's fatal collision, as Exhibit-A (Automobile Bill of Sale) clearly indicates.

**WHEREFORE** Premises Considered, the Plaintiff respectfully requests that this Honorable Court, based on the afore-mentioned reasons deny the Defendants Motion to Dismiss with prejudice.

**Respectfully Submitted:** on this the 9th day of January 2007.



RODNEY N. CAFFEY (CAF002)  
Attorney for Plaintiff

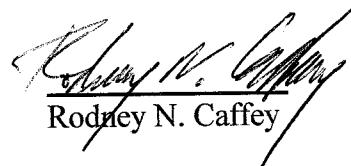
**ADDRESS OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 9th day of January 2007, I have served a copy of the foregoing, upon the following by electronic mail:

Roger S. Morrow, Esq., & Joel H. Pearson, Esq.  
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Rodney N. Caffey